

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re: Stewart Wayne Capps)	Case No: 18-36221
Candice Marie Capps)	Chapter 13
aka Candice Marie Alexander)	

OBJECTION TO CONFIRMATION

COMES NOW, Susan H. Call, Counsel for Carl M. Bates the Chapter 13 Trustee, and moves this Court to deny confirmation of the Chapter 13 Plan filed on January 2, 2018, for the cause as follows:

1. The Debtor filed this Chapter 13 Petition on December 11, 2018 under 11 U.S.C. Chapter 13, now pending in the United States Bankruptcy Court, Eastern District of Virginia, Richmond Division.
2. This Objection is filed pursuant to 11 U.S.C. 1325 (b) (1) (B).
3. The above filed Chapter 13 Plan fails to provide that all of the debtor's projected disposable income in the applicable commitment period will be applied to the plan payments, shown by:
 - a. Upon evidence and belief, the Debtors understate income on Schedule I, and 22C, the Trustee requests six months of stubs from all sources to include the part time income.
 - b. The Trustee requests all stubs since filing and for proof of any decreases in income and permanent loss of overtime, and to be updated on any changes in income until this objection is resolved, and in the future, if income is corrected, the debtor would be above median and need to complete form 22C.
 - c. The Trustee requests proof of all transportation expenses for three months prior to filing.
 - d. The Trustee requests six months of proof of out of pocket help for the Mother and Brother paid by the debtors and how those payments meets the requirements of 11 USC 707(b)(2)(A)(ii)(II).
 - e. The debtors adjust off income for the daughter on line 43 and then again on line 46.
 - f. The debtors also deduct vehicle payments on line 43 and 33 Which appear to be a duplication.
 - g. The debtors also duplicate vehicle operating expense on line 12 and line 43.
 - h. The debtor deducts for health insurance and based upon testimony, the health insurance is not paid by the debtors.

- i. The Chapter 13 Trustee would suggest that all disposable income be paid into the Chapter 13 Plan.

WHEREFORE, for the reasons stated herein, the Chapter 13 Trustee, by Counsel, Susan H. Call, respectfully moves the Court to deny confirmation of the Debtors' proposed Chapter 13 Plan as filed with the Court, and for such further and other relief as in the premises may seem just.

Date: February 6, 2019

/s/Susan H. Call
Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee

Certificate of Service

I hereby certify that on February 6, 2019, I have mailed or hand-delivered a true copy of the foregoing Objection to Confirmation to the debtor(s), Stewart Wayne and Candice Marie Capps, 382 Mitchells Mill Road, Aylett, VA 23009 and electronically sent to debtor's attorney, Nupa Agarwal, Esquire, agarwalgotnotices@gmail.com.

/s/Susan H. Call
Susan H. Call, Counsel for
Carl M. Bates, Chapter 13 Trustee

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In re: Stewart Wayne Capps) Case No: 18-36221
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aka Candice Marie Alexander)

Debtor Address 382 Mitchells Mill Road
Aylett, VA 23009

Last four digits of Social Security No(s): 0906
0063

NOTICE OF OBJECTION TO CONFIRMATION

Susan H. Call, Counsel for Carl M. Bates the Chapter 13 Trustee, has filed papers with the Court objecting to confirmation of your Chapter 13 Plan, which was filed in this case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).

If you do not want the Court to grant the relief sought in the Objection, or if you want the Court to consider your views on the Objection, then on or before three (3) days before the date of the hearing, you or your attorney must:

 X File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street, Suite 4000
Richmond, VA 23219

You must also mail a copy to:

Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee
P.O. Box 1819
Richmond, VA 23218

_____ Attend a hearing to be scheduled at a later date. You will receive separate notice of hearing. **If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.**

 X Attend the hearing on the objection scheduled to be held on **February 13, 2019** at **11:10 am** at United States Bankruptcy Court, **701 East Broad Street, Richmond, VA 23219, Room 5000.**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the objection and may enter an order granting that relief.

Date: February 6, 2019

/s/Susan H. Call
Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee
P.O. Box 1819
Richmond, VA 23218-1819
VSBN 34367

Certificate of Service

I hereby certify that on February 6, 2019, I have mailed or hand-delivered a true copy of the foregoing Notice of Objection to Confirmation to the debtor(s) Stewart Wayne and Candice Marie Capps, 382 Mitchells Mill Road, Aylett, VA 23009 and electronically sent to debtor's attorney, Nupa Agarwal, Esquire, agarwalgotnotices@gmail.com.

/s/Susan H. Call
Susan H. Call, Counsel for
Carl M. Bates
Chapter 13 Trustee